

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

IN RE: CHRISTOPHER C. NEAL

CHAPTER 13

DEBTOR

CASE NO. 18-12411 JDW

**MOTION OF OXFORD UNIVERSITY BANK FOR RELIEF
FROM §362 AUTOMATIC STAY AND FOR ABANDONMENT OF PROPERTY**

COMES NOW, OXFORD UNIVERSITY BANK (“OU Bank”), by and through their attorney of record, and respectfully files this Motion for Relief from the §362 Automatic Stay and Abandonment of Property and would show unto the Court as follows:

1. Christopher Neal (“Debtor”) filed for bankruptcy relief under 11 U.S.C. Chapter 13 in this case on June 21, 2018, listing OU Bank as a secured creditor. Pursuant to 11 U.S.C. §362, OU Bank is prohibited from commencement of any judicial proceeding against the Debtor, any acto to obtain possession of property of the estate, or any act to enforce a lien against property of the estate.
2. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §1334 and 11 U.S.C. §362.
3. On or about March 30, 2018, Debtor executed a note in the amount of \$117,584.33 and granted OU Bank a security interest in the following collateral (collectively, the “Collateral”):
 - a. 2011 Ford F3D Truck, VIN# 1FD8W3HT0BEB18651,
 - b. 1996 Mack RD6 Truck, VIN# 1M2P267Y4TM025824,
 - c. 1979 International Model F74 Truck, VIN #CF257JGB21979,
 - d. 1998 Case Bulldozer, Serial No: JJJG0254874, with all attachments and accessories,

- e. John Deere 650J LGP Dozer with 6-way blade, Serial No.: TO550JX130256,
- f. 1999 Sakai SV70 Compactor, Serial No.: 30089, with all attachments,
- g. 2017 Haulass Lowboy, Serial No.: 5JYLB2521HPH06074, with all attachments,
- h. 1989 Caterpillar D4H Bulldozer, Serial No.: 8PB03744, with all attachments.

The note and evidence of OU Bank's perfected security interest are attached hereto as "Exhibit A."

4. The Debtor's Second Amended Plan (*see* Dkt. # 37) indicates OU Bank's claim on file with the Court (*see* Clm. #20) will be paid in full at the applicable *Till* rate. OU Bank has no objection to said treatment.

5. The Debtor continues to use the Collateral in day-to-day business operations. Upon information and belief, Debtor is in the construction/dozer business than can be rough on equipment. OU Bank asserts its Collateral is being diminished in value due to the wear and tear associated with said business.

6. The Debtor has failed to make adequate payments directly to OU Bank s and is delinquent to payments due to the Trustee. Such failure has resulted in substantial harm to OU Bank and is grounds for relief pursuant to 11 U.S.C. §362(d)(1). Therefore, the automatic stay should be lifted, and OU Bank should be allowed to execute on the Collateral. OU Bank further asks for attorneys fees and court costs incurred in bringing this Motion.

7. Alternatively, OU Bank requests this Court order adequate protection payments.

WHEREFORE, PREMISES CONSIDERED, OU Bank respectfully requests that the Court grant this motion for relief from the automatic stay and abandonment of property and for other such relief as the Court may deem proper and just.

RESPECTFULLY SUBMITTED, this the 31st day of October, 2018.

OXFORD UNIVERSITY BANK

**BY:/s/ Robert H Lomenick, Jr.
ROBERT H. LOMENICK, JR.**

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CERTIFICATE OF SERVICE

I, Robert H Lomenick, Attorney for Creditor, do hereby certify that I have this day mailed, via electronic delivery or postage prepaid, a true and correct copy of the above and foregoing Motion of Oxford University Bank for Relief from §362 Automatic Stay to:

**Robert Gambrell
Gambrell & Associates, PLLC
101 Ricky D Britt Blvd.
Suite 3
Oxford, MS 38655**

**Locke D. Barkley
Chapter 13 Trustee
6360 I-55 N., Ste. 140
Jackson, MS 39211**

**Office of US Trustee
501 East Court Street, Suite 6-430
Jackson, MS 39201**

This the 31st day of October, 2018

**/s/ Robert H Lomenick, Jr.
ROBERT H LOMENICK, JR**